



May 17, 2011

VIA ECF

Hon. Tonianne J. Bongiovanni, U.S.M.J.  
U.S. District Court for the District of New Jersey  
Clarkson S. Fisher Federal Building & U.S. Courthouse  
402 East State Street  
Trenton, New Jersey 08608

**Re: AstraZeneca v. Hanmi, Civ. Action No. 11-0760 (JAP)(TJB)**

Dear Judge Bongiovanni:

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We, along with our co-counsel Milbank, Tweed, Hadley & McCloy, represent plaintiffs in this action. We write to request correction of the Scheduling Order issued by the Court on May 11, 2011 (D.I. 56). Specifically, we request that reference to L. Pat. R. 3.6(h) be removed from the first item in the schedule. We were advised today that defendants do not consent to this request.


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The Order provides for "*Plaintiffs' Disclosure of Asserted Claims and Related Document Production (L. Pat. R. 3.6(b) & (h))*" by May 18, 2011. The parties' proposed form referred only to L.Pat.R.3.6(b) when addressing Plaintiffs' Disclosure of Asserted Claims. We assume the reference to "*Plaintiffs' Disclosure of Asserted Claims and Related Document Production*" is drawn from L. Pat. R. 3.6(h). However, by its terms, L. Pat. R. 3.6(h) applies only to disclosures made pursuant to L. Pat. R. 3.6(g) which, in turn, deals only with "Disclosure of Infringement Contentions" in a Hatch-Waxman case.

In a Hatch-Waxman case, the Disclosure of Asserted Claims under L. Pat. R. 3.6(b) occurs separately from the Disclosure of Infringement Contentions under L. Pat. R. 3.6(g). If L. Pat. R. 3.6(h) applies when a Hatch-Waxman plaintiff provides its "Disclosure of Asserted Claims" under L. Pat. R. 3.6(b), the plaintiff arguably would be required to produce documents supporting infringement contentions even though the disclosure of infringement contentions is not yet required.

If Your Honor wishes to discuss this matter, we will make ourselves available at Your Honor's convenience.

Respectfully,

  
John E. Flaherty

cc: All counsel of record (via e-mail)

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